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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,623	02/25/2002	Kouichi Yasaki	1466.1055	8101

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EXAMINER

DENNISON, JERRY B

ART UNIT PAPER NUMBER

2143

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/080,623

Applicant(s)

YASAKI ET AL.

Examiner

J. Bret Dennison

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Action is in response to Amendment for Application Number 10/080,623 received on 28 November 2005.
2. Claims 1-12 are presented for examination.
3. Claims 1-11 have been amended. Claim 12 is new.
4. The prior rejection is respectfully maintained, because the amendment filed 28 November 2005 does not sufficiently alter breadth of the claims to obviate over the applied references. The rejection issued in the Non-Final Office Action mailed 07/27/2005 remains applicable for rejecting the claims as amended, and is therefore incorporated by reference.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 5 recites the limitation, "the plurality of terminals". There is insufficient antecedent basis for the limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 7, 8, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda (JPO Pub. 09-305508).

6. Regarding claims 1, 7, 8, and 12, Ueda disclosed an interface transfer device connected to communication terminals such as personal computers (Ueda, paragraph 15) in which the interface transfer device provides the functionality of switching from wired communication to wireless communication without interrupting communication and while continuing the current communication (Ueda, see Abstract), including a switching element and switching controller (Ueda, paragraph 19) which switches the communication line and address based on a resending demand from the communication terminal (Ueda, paragraph 26). Ueda also disclosed RAM32 (Ueda, Fig. 13, 32) for holding data that is ready for transmission (Ueda, paragraph 20).

Ueda did not explicitly disclose detail about using a buffer for cumulating a predetermined quantity of latest transmission or reception data in the communication line.

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the RAM32 as disclosed in Ueda, to be used as a buffer of a predetermined size since the RAM32 is used for holding data that is ready for transmission as disclosed. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the functionality of the RAM32 to be equivalent to a buffer in order for transmission of data to functionally operate, since a memory area must be provided to store data temporarily while it is waiting to be used/formatted for transmission, i.e. packets, frames. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a buffer of a predetermined size into Ueda in order for the system of Ueda to be able to switch communication lines, from wired to wireless, without interrupting communication, while continuing the current communication (Ueda, see Abstract).

Claims 7 and 8 include the same limitations as claim 1, and further include the client end of communication with the same limitations on the handling end. It would have been obvious to one in the ordinary skill in the art at the time of the invention to include the client end of the system, setting up the data communication line with the special requirements in order for client and server to be able to communicate and transmit the data element having special requirements. Claim 12 includes a method performing similar limitations, and is therefore rejected as being substantially similar to claim 1.

Response to Amendment

7. Applicant's arguments and amendments filed on 11/28/2005 have been carefully considered but they are not deemed fully persuasive. Applicant's arguments are deemed moot in view of the following new grounds of rejection as explained here below, necessitated by Applicant's substantial amendment (i.e., *by incorporating new limitations into the independent claims, which will require further search and consideration*) to the claims which significantly affected the scope thereof.

Applicant's arguments with respect to claims 1-12 have been fully considered but they are not persuasive.

Applicant's arguments include the following:

8. Applicant explains, "in the claimed invention, if a user is using a service such as, for example, streaming, the service can be used continuously, since the same home server is used before and after the switch. In Bouke, in contrast, a communication line is switched to a different destination" [see Applicant's Response, filed 11/28/2005, page 6, 14-18].

Examiner respectfully disagrees. The independent claims do not recite any language involving a service being continuously used. Examiner interprets independent claim 1 to read simply as switching to a different communication line and address and sending data. There is no indication whether the data sent before and after the switching are related. There is also no indication that the new communication line and address corresponds with the same terminal.

9. Applicant argues, "Bouke does not pertain to a line switching system of a local area network at all" [see Applicant's Response, filed 11/28/2005, page 6, 21-24].

In response to applicant's arguments, the recitation "of a local area network" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

10. Applicant argues "Bouke neither teaches, discloses, nor suggests "a data destination switching portion for transferring packet data received for the terminal to the communication line, after the switching" [see Applicant's Response, filed 11/28/2005, page 7, lines 3-4].

This argument seems to contradict Applicant's first argument where Applicant recited, "In Bouke, in contrast, a communication line is switched to a different destination."

As shown in Bouke, the communication line is switched making it possible for the type of connection to satisfy the special requirements of the requested data element through the selection of the second address (see Bouke, Abstract), which means the

connection is switched to transfer the data on a communication line that satisfies special requirements of the requested data element.

11. It is the Examiner's position that Applicant has not yet submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in manner, which distinguishes over the prior art.

12. Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response and reiterates the need for the Applicant to more clearly and distinctly define the claimed invention.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Bret Dennison whose telephone number is (571) 272-3910. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).



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